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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,343	02/12/2004	Kyung-geun Lee	1793.1205	1758
49455	7590	10/12/2006	EXAMINER	
STEIN, MCEWEN & BUI, LLP 1400 EYE STREET, NW SUITE 300 WASHINGTON, DC 20005			PSITOS, ARISTOTELIS M	
			ART UNIT	PAPER NUMBER
			2627	

DATE MAILED: 10/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/776,343

Applicant(s)

LEE, KYUNG-GEUN

Examiner

Aristotelis M. Psitos

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

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DETAILED ACTION

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

The IDSes filed on 3/31/04, 9/8/04 and of course 4/24/06 have been received and made of record.

Specification

The examiner is not clear as to how the phrases "sum signal" and differential signal" is to be interpreted. Further elaboration/clarification is respectfully required.

Claim Objections

In claim 12 the phrase "drive text zone" should be ---- drive test zone -----?
Correction is respectfully required.

As far as the claims recited positive limitations and as interpreted below, the following art rejections are made.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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1. Claims 1-35 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-32 of U.S. Patent No. 7009926. Although the conflicting claims are not identical, they are not patentably distinct from each other because obviously the method exists when the apparatus perform its function.

No further analysis is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

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2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

2. Claims 1,2,4,5,7,11 and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Inazawa et al.

Inazawa et al clearly discloses a recording method – not the title and the abstract.

The compatibility information is interpreted as the book type and version information as discussed with respect to figure 6. Obviously information is transferred in appropriate rec/repr. apparatus.

With respect to claim 2, since version vary, i.e., version 1.0 , version 2.0 etc., similar to the concept of draft copies (draft 1, draft 2, etc.) in any organization keeping records, the examiner interprets the book version to meet such. Since the "optimum" write pattern is that originally recorded, this limitation is met as is the limitations of claim 33.

With respect to claims 4 and 5, see description with respect to figure 4a.

With respect to claim 7, such is present, else no data would have been able to be recorded in the first place.

With respect to claim 11, see the discussion with respect to figure 6.

Claim Rejections - 35 USC § 103

3. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of see Sasa et al ('595) starting at col. 8 line 39 with respect to the DVD Specification, July version 1.9 . The examiner does not have a copy thereof. If applicant has a copy handy, submission of such would be greatly appreciated.

4. Claims 4,5,7,12,13,14,15,16 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of Lim.

With respect to the above claims, such a format is in existence already – see figure 5 of Lim for instance.

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It would have been obvious to modify the base system of Inazawa et al with the above teachings from Lim, motivation is to permit Inazawa et al recording capability to be compatible with Lim's recording capability, hence compatible.

5. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 12 above, and further in view of Miyake et al.

Miyake et al discloses the ability of having information identifying velocity – which the examiner interprets as recording speed.

It would have been obvious to modify the base systems as relied above with respect to claim 12 and include the additional speed parameter – motivation is to permit a transparent operation upon rec/repr.

6. Claims 18,19,20,22 and 24,25,26,28,31, 32, 33, 34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inazawa et al further considered with Miyake et al.

Inazawa et al clearly discloses a recording method – not the title and the abstract.

It has the lead in, lead out and data areas. Data is transferred accordingly.

There is no writing pattern clearly depicted, although there is modulation information.

Miyake et al teaches in this environment the ability of having writing strategies, ws1, ws2 appropriately located for the desired ability. This is interpreted as the claimed "information about an optimal writing pattern".

The velocity information is interpreted as the speed requirement of claim 32. See figure 62 with respect to the control data zone limitations of claims 20 and 26. Also see such figure for the limitations of claims 22 and 28.

With respect to the limitations of claim 31, there is more than 1 bit to describe the write strategy.

It would have been obvious to modify the base system of Inazawa et al with the additional teaching of writing strategy identification so as to optimize the writing of information upon the record medium.

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7. Claims 18,19,20,22,24,25,26,28,31, 32, 33, 34 and 35 are rejected under 35 U.S.C. 102(e) as being anticipated by Miyake.

Miyake et al discloses a recording method. The lead in, lead out and data areas are inherently present. Furthermore, Miyake et al discloses identification of writing strategies – see the discussion with respect to ws1, and ws2 and their location. This is interpreted as claimed "information about an optimal writing pattern".

The examiner interprets this ability as meeting the claimed method limitation with respect to information about an optimum writing pattern. The velocity information is interpreted as the speed limitation of claim 34

The remaining defined areas are present in figure 62 thereof.

With respect to the limitations of claim 31, there is more than 1 bit to describe the write strategy.

8. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 24 as stated in either paragraphs 6 or 7 above, and further in view of Tasaka et al – WO 02/089123. The examiner is relying upon the US patent equivalent of such – patent 7068579 – as providing the English translation thereof.

Although there is a reserved area in the above combination of references, the location and what type of information that is recorded therein are not so depicted.

Tasaka et al – see figure 3 with respect to the discussion of bp area depicts reserved areas.

The ability of recording either redundant or permitting such an area for the write strategy is considered merely a selection of alternatives an obvious to one of ordinary skill in the art, i.e., duplicate areas for duplicate information to ensure proper signal reproduction, and or relocating the write strategy information to another location are alternatives to placing the information as desired..

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aristotelis M. Psitos whose telephone number is (571) 272-7594. The examiner can normally be reached on M-F: 6:00 - 2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne D. Bost can be reached on (571) 272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Aristotelis M Psitos
Primary Examiner
Art Unit 2627



AMP